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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/675,950	09/29/2000	Jorgen Topp Jorgensen	6136.200-US	1104

25908 7590 07/28/2003
NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK, NY 10110

EXAMINER

WITZ, JEAN C

ART UNIT	PAPER NUMBER
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1651

DATE MAILED: 07/28/2003

20

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/675,950

Applicant(s)

JORGENSEN ET AL.

Examiner

Jean C. Witz

Art Unit

1651

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 30 June 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

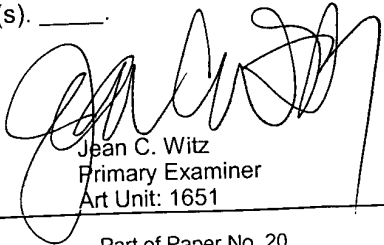
Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-8, 11, 14-15, 17-28.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


Jean C. Witz
Primary Examiner
Art Unit: 1651

DETAILED ACTION

Response to Arguments

Applicant's arguments filed June 30, 2003 have been fully considered but they are not persuasive for the reasons set forth below.

Applicants argue that the Examiner has implied that the term "enzyme concentrate" is synonymous with the term "fermentation broth comprising an enzyme and a biomass." Applicants assert that it is well known in the art that the term "enzyme concentrate" "is a highly purified enzyme composition that has been treated to remove biomass." Applicants point to the specification at page 3, lines 10-18 as defining the term "enzyme concentrate" as "a fermentation filtrate which has been processed to increase the concentration of the enzyme." First, the Examiner respectfully disagrees with the argued meaning of the term as requiring the quality of being "highly purified" when referring to "enzyme concentrate". Second, it was not the term "enzyme concentrate" to which the Examiner was referring when asserting, in the previous office action, page 3, that "the term encompasses a biomass and a concentrated enzyme." The Examiner was referring to the term "fermentation broth", not "enzyme concentrate." Finally, it remains unclear why this is even at issue since the term "enzyme concentrate" is not present in the claim language.

Applicants assert that "As best [sic], Liddell et al. in view of Neubeck only suggests to the artisan to substitute a concentrated enzyme of Neubeck for whole microorganisms of Liddell et al or the whole microorganism of Liddell et al. for the concentrated enzyme of Neubeck." However, Applicants have not addressed the fact

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that Liddell et al. teaches that a biomass may be spray dried for the purpose of preserving the enzymes and the benefit of the cells and Neubeck et al. teaches that the concentrated enzymes obtained from the fermentation broth may be spray dried for the purpose of preserving the enzymes for further use. Therefore, it would have been obvious to one of ordinary skill in the art to either leave in the cells in the fermentation broth prior to spray drying in order to obtain the benefit of the cells as taught by Liddell et al. or in the alternative, it would have been obvious to one of ordinary skill in the art to leave in the enzyme with the biomass before spray drying the composition of Liddell et al. in order to increase the enzyme activity of the Liddell et al. composition.

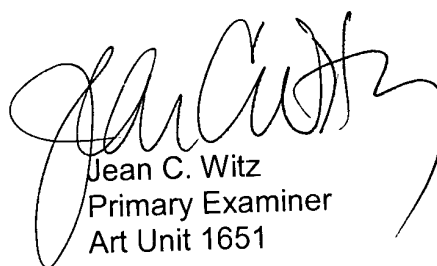
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean C. Witz whose telephone number is (703) 308-3073. The examiner can normally be reached on 6:30 a.m. to 4:00 p.m. M-Th and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn can be reached on (703) 308-4743. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

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Jean C. Witz
Primary Examiner
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July 24, 2003